IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CIVIL REVISION APPLICATION No 642 of 2000
For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHANJIBHAI NATHABHAI SINGALA

Versus

LAKHUBHA TAKHUBHA JADEJA

Appearance: MR BP MUNSHI for Petitioner Nos. 1-2
MS NIRALI B MUNSHI for Petitioner No. 1-2
MR MP PRAJAPATI for Respondent No. 1-2
MR SURESH M SHAH for Respondent No. 1,2
MR MEHUL S SHAH for Respondent No. 1,2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 21/11/2002

ORAL JUDGEMENT

The petitioners are the original plaintiffs of Regular Civil Suit No.619 of 1999, pending before the Civil Judge (S.D.), Rajkot. The said suit has been filed against the defendants for permanent injunction and declaration, as, according to the plaintiffs, the defendants have no right to pass and re-pass through the disputed land. In the said suit, an application below Exhibit 5 was given for interim injunction, restraining the defendants from passing through the disputed land. The learned trial Judge, after hearing both the sides, rejected the application, as, it was found that there was no prima facie case in favour of the petitioners. The said order was taken in appeal by the present petitioners

before the Appellate Court and the Appellate Court also dismissed the said appeal. Ultimately, the present petitioners have approached this Court under Section 115 of the Code of Civil Procedure.

Mr.Munshi, learned Advocate for the petitioners, vehemently argued that the appellate court has committed an error of law and of jurisdiction by dismissing the appeal, as, he has not properly considered the relevant documents submitted by the petitioners.

I have heard the learned Advocates at length and I have gone through both the orders. It is an admitted fact that the proceedings arise out of an interlocutory injunction application and both the trial court as well as the appellate court has found that there is no prima facie case in favour of the present petitioners-original plaintiffs. The jurisdiction of this Court under Section 115 of the Code of Civil Procedure is very limited and as laid down by the Apex Court in Hindustan Aeronautics v. Ajit Prasad, AIR 1973 SC 76, it cannot be said that the appellate court has committed any error of jurisdiction while deciding the appeal of the petitioners. Under these circumstances, this revision application is without any substance. Hence, it is rejected on the aforesaid grounds. Rule is discharged with no order as to costs. Interim relief stands vacated.

At this stage, request is made by Mr.Munshi, learned Advocate for the petitioners, that the suit be expedited and status quo which is prevailing as on today may be ordered to be continued, as, according to him, status quo is in force all throughout. So far as expediting the suit is concerned, Mr.Shah, learned Advocate for the respondents, has no objection. In the facts and circumstances, the learned trial Judge is directed to dispose of the aforesaid suit, i.e. Regular Civil Suit No.619 of 1999, as expeditiously as possible and preferably by 30th June, 2003. The second prayer regarding continuing status quo cannot be granted, especially when it has been found that there is no substance in this revision.

Writ of this order to be sent to the trial court forthwith for the purpose of expeditious hearing of the suit. This direction for expediting the suit is given as both the learned advocates have fairly stated that the respective advocates and parties before the trial court will cooperate in early disposal of the said suit. It is needless to say that while deciding the suit, the trial court will not take into consideration the observations

made by it at the time of deciding Exhibit 5 or the observation made by the appellate court while deciding the civil miscellaneous appeal against the order passed by the trial court below Exhibit 5.

21st November, 2002 (P.B. Majmudar, J.)

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(apj)